

STATE OF MICHIGAN
COURT OF APPEALS

FRANCES MORPHIS,

Plaintiff-Appellee,

v

FRIEDRICH DUTKA,

Defendant-Appellant.

UNPUBLISHED

September 29, 2005

No. 254316

Wayne Circuit Court

LC No. 03-319573-NM

Before: Bandstra, P.J., and Neff and Donofrio, JJ.

PER CURIAM.

Plaintiff brought this action to renew a judgment previously issued in favor of herself and William Morphis against defendant. Defendant raised several affirmative defenses in answer to plaintiff's complaint. Plaintiff moved for summary disposition, and the trial court granted the motion, concluding that the defenses raised by defendant were not valid in an action to renew a judgment. Defendant appeals as of right. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff's complaint sought to renew a judgment pursuant to MCL 600.5809(3), which provides, in pertinent part:

Except as provided in subsection (4), the period of limitations is 10 years for an action founded upon a judgment or decree rendered in a court of record of this state, or in a court of record of the United States or of another state of the United States, from the time of the rendition of the judgment or decree. . . . Within the applicable period of limitations prescribed by this subsection, an action may be brought upon the judgment or decree for a new judgment or decree. The new judgment or decree is subject to this subsection.

Plaintiff alleged that on September 7, 1993, she was granted a judgment against defendant in Wayne Circuit Court No. 90-031687-NH, and that the judgment remained unsatisfied and was scheduled to expire. In his answer and affirmative defenses, defendant attacked the validity of the original judgment on several grounds.

Plaintiff moved for summary disposition pursuant to MCR 2.116(C)(9) and (10). The trial court concluded that the defenses raised by defendant were not valid under the circumstances and granted plaintiff's motion.

We review de novo the grant or denial of summary disposition to determine if the moving party is entitled to judgment as a matter of law. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999).

Defendant first argues that the trial court applied the wrong standard for granting summary disposition pursuant to “MCR 2.116(C)(9)(10)” because it failed to inquire whether a record might be developed that would leave open an issue upon which reasonable minds may differ. Defendant’s argument fails to recognize that subsections (C)(9) and (C)(10) are distinct subrules. Further, although the standard recited by defendant was formerly used in decisions reviewing motions under MCR 2.116(C)(10), it was deemed erroneous in *Smith v Globe Life Ins Co*, 460 Mich 446, 455-456 n 2; 597 NW2d 28 (1999). Moreover, the trial court’s reference to defendant’s defenses not being “valid under these circumstances” suggests that the court’s ruling was based on MCR 2.116(C)(9) (failure to state a valid defense). Defendant does not address the standard for granting summary disposition under this subrule. For these reasons, we reject this claim of error.

In his second issue, defendant contends that summary disposition was improper because of numerous defects in the original judgment. However, defendant failed to adequately brief this issue. The trial court granted summary disposition in favor of plaintiff because the defenses raised by defendant were an improper attack on the original judgment and involved issues that were addressed in previous rulings in the underlying case. Defendant does not address these bases for the trial court’s ruling. His failure to address the reasons for the trial court’s decision precludes appellate relief. *Roberts & Son Contracting, Inc v North Oakland Dev Corp*, 163 Mich App 109, 113; 413 NW2d 744 (1987). Moreover, his argument assumes that purported irregularities concerning the original judgment may be raised as a defense to “an action” to renew a judgment pursuant to MCL 600.5809(3), but he does not address, much less cite any authority on this point. Our Supreme Court has explained:

[A] mere statement without authority is insufficient to bring an issue before this Court. It is not sufficient for a party “simply to announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position.” Accordingly, we need not address this issue, and therefore, decline to do so. [*Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998), quoting *Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959).]

Likewise here, defendant may not assume that attacks on the validity of the original judgment may be raised as defenses to the present action, and leave it to this Court to develop his arguments and search for authority to sustain his position.

Defendant additionally argues that the lower court proceedings violated his federal and state constitutional right to due process. He primarily refers to events that resulted in the original judgment. Again, defendant has not developed a cogent argument to support his contention. The appellate and post-judgment procedures available to defendant in the original action afforded him an adequate opportunity to challenge the judgment. It is not enough for defendant to claim that there has been an injustice. He was required to avail himself of those procedures, comply with applicable requirements, and demonstrate his entitlement to relief. His failure to obtain

relief in accordance with the rules does not demonstrate that his right to due process was violated.

We affirm.

/s/ Richard A. Bandstra

/s/ Janet T. Neff

/s/ Pat M. Donofrio